IN THE HIGHC COURT OF UTTARANCHAL
AT NAINITAL
Writ Petition No. 906 of 2005 (S/S)

Nathilal Silswal S/o Late Santram Silswal
Presently posted as Head Teacher
Primary School
Rajiv Gram, Chaudha Bigha
Tehri Garhwal
R/o Village Dandi P.O. Dandi (Ranipokhari)
Tehri Garhwal
District Tehri Garhwal … Petitioner

Versus

1. State of Uttaranchal through
   Secretary, Primary Education
   Uttaranchal, Dehradun
2. District Education Officer
   Tehri Garhwal, Narendra Nagar
   District Tehri Garhwal
3. Additional District Basic Education Officer
   Tehri Garhwal
   Narendra Nagar
   District Tehri Garhwal … Respondents

Sri Sudhir Singh, learned counsel for the petitioner
Sri Harendra Belwal, learned standing counsel for the State

Hon'ble B.C. Kandpal, J.

By means of this writ petition a relief has been sought in the nature of certiorari quashing the impugned transfer order dated 28.06.2005 passed by the respondent No. i.e. Secretary, Primary Education, Uttaranchal, Dehradun.

Brief facts giving rise to this petition are that the petitioner was appointed as Assistant Teacher in the Primary School, Purvala Dogi in the year 1972. Thereafter the services of the petitioner was transferred several times and in the year 1994 the petitioner was transferred to his present place of posting i.e. Primary School, Chaudha Bigha, Narendra Nagar.

The petitioner has been transferred from his present school i.e. Primary School, Chaudha Bigha, Narendra Nagar to Primary School, Kakhur, Narendra Nagar vide order dated 28.06.2005.

Feeling aggrieved by the aforesaid impugned transfer order, the petitioner has preferred this writ petition before this Court.

Heard learned counsel for the petitioner as well as learned standing counsel for the State and perused the record.

Learned counsel for the petitioner has invited my attention towards the Government Order No. c0f'k0i0@lkekU;&3@ 42371007@96&97 dated 09.04.1996 pertaining to the transfer of the teacher provided in Clause 4(e) which is quoted below:-

> "4 Nk= l[;k ds vk/kkj ij vfrfjDr v/;kidksa dk lek;kstu dh fLFkfr esa fuEu 0;oLFkk ykxw dh tk;&
>
> ¼M½ lek;kstu esa jk"Vªh; @jkT; ijdkj ikIr 55 o"kZ ls vf/kd vk;q fodykx tks py fQj ugha ldrs ;k dfBu vkfn ls fifMr gks dk lkekU;r% u gVk;k tk;sA"

Learned counsel for the petitioner has further invited my attention towards the Government Order No. 718/XXIV(2)/2005 dated 13.05.2005 providing the Rules of Transfer of Teacher relating to Basic and Secondary Education and has submitted that those rules have been ignored in the case of the petitioner.

It has also been submitted by the learned counsel for the petitioner that the petitioner is an acute patient of heart disease and as per the Government Order dated 13.05.2005 his case should have been considered by the respondent No. 1 while transferring him to a remote place.

I do not find any force in the argument advanced by the learned counsel for the petitioner. It is always at the discretion of the authorities concerned to consider the Government Order at the time when the officials are transferred from one place to another. At the same time Government Order cannot take the shape of the law.

In view of the able discussion, I am of the view that the writ petition is finally disposed of with a direction that the petitioner shall file fresh representation before the respondent No. 2 within a period of 15 days, who shall re-consider and decide the representation of the petitioner in the light of the above mentioned Government Order dated 13.05.2005 and 09.04.1996 which has been mentioned by me in the body of the judgment, within a period of 30 days from the dated of receipt of the certified copy of the judgment by passing speaking and reasoned order.

Accordingly, the writ petition is finally disposed of.

(B.C. Kandpal, J.)

11.07.2005
ASWAL